

REMARKS

This is in response to the Office Action mailed December 19, 2002, in the above identified application, which application is related to a composition which may be applied to a surface for the purpose of combating offensive odors. As noted in the specification of this case, the composition comprises a perfume suitable for masking unacceptable odors, in combination with specific surfactant/solubilizers which enable their use in aqueous solution. The present invention differs from the prior art in the use of glycol ethers and glycol ethyl ethers in combination with hydrophobic fragrance oil in water based formulations, without the addition of volatile solubilizers such as glycols or monohydric alcohols, previously utilized, and formerly considered necessary, to solubilize hydrophobic fragrance materials. It is specifically indicated in the specification that the presence of volatile organic compounds, or VOCs, such as low molecular weight alcohols, is undesirable, and should be limited to less than about 1 percent, and preferably less than about 0.25 percent. The present invention thus provides an essentially non-VOC formulation which does not form a residue on fabric. This is significant in the avoidance of VOC emissions, which are regulated under state and federal air quality standards, as well as being objectionable to the senses of many consumers. The Examiner's attention is directed to the present amendment of claims 34, 44, and 53, the independent claims of this application, wherein said claims have now been amended to recite that the composition comprises less than about 0.25 percent volatile organic compounds.

In the rejection of December 19, 2002, the Examiner has rejected claim 35 as being indefinite, due to a recited limitation of "value greater than about 3". While Applicant does not concede that this limitation is per se indefinite, in light of the teachings of the specification, claims 35 and 44 have now been amended so as to clarify the specific value of $C \log P$ which is not to be exceeded, in the interest of expediting prosecution of this application.

The Examiner has further rejected all claims of this Application under 35 U.S.C. 103(a) as unpatentable over Nogami *et al.* (WO 98/56337) in view of Yuhas (US

4,226,889). Nogami *et al.* are said to teach an aqueous malodor reducing composition comprising low concentrations of fragrance materials such as amber and musk (having C log P not less than 3.5), up to 35% surfactant, diethylene glycol as a non-volatile organic compound, alcohol ethoxylates, copper and zinc salt odor absorbers, and other adjunct materials. The patent also teaches a method for use of the composition, at a pH of 4. The Examiner has indicated that one of skill in the art would find it obvious to employ any percentage range of perfumes and surfactants. The Yuhas reference is said to teach a deodorant cosmetic composition comprising fragrance components such as the floral and the spicy groups. The Examiner indicates that one would be motivated to use the fragrances of Yuhas in the compositions of Nogami *et al.*

However, the Examiner's attention is directed to the teachings of Nogami *et al.* and Yuhas, that volatile organic compounds, such as alcohols, may be present. For example, Nogami *et al.*, at page 7, lines 12 - 19, teaches that C1-C4 monohydric alcohols, and C2-C6 polyhydric alcohols, may be used for solubilizing or diluting some solid or viscous ingredients in the compositions of the invention. Yuhas also teaches (column 3, lines 5 - 10) that fragrance materials are supplied as concentrates which generally contain from about 0.5 to about 20 percent, and more usually contain from about 3 to about 12 percent of one or more fragrance compounds in a solvent such as water or alcohol.

Accordingly, the teachings of the references are contrary to the specific claims of the present invention, which are directed to a composition in which volatile organic compounds, such as alcohol, are to be specifically avoided or limited. It is submitted that one of ordinary skill in the art, familiar with the teachings of Nogami *et al.* and Yuhas, would not be led to the present invention, which requires that volatile organic compounds do not exceed 0.25 percent of the aqueous composition for removal of a malodorous material from a surface.

It is submitted that newly amended claims 34 - 58 are neither taught nor made obvious by the references of record, which fail to teach or suggest to one of ordinary skill in the art that the combination of a non-volatile organic surfactant/solvent with a

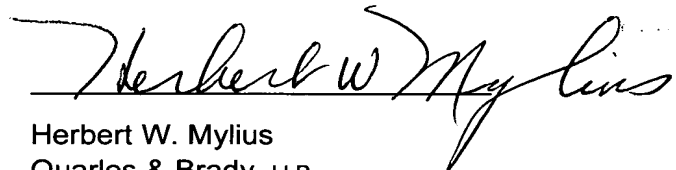
non-volatile organic solvent dryer aid will permit one to utilize a hydrophobic perfume in an aqueous composition to overcome objectionable odors.

Accordingly, it is submitted that all such rejections as set forth in the Rejection of December 19, 2002, are without merit, and that the rejection of claims 34 - 58 of this application is unwarranted. An early notification of the allowability thereof is requested.

Respectfully submitted,

Attorney for Applicants Babinski *et al.*

Dated: May 19, 2003

A handwritten signature in cursive script, reading "Herbert W. Mylius", written over a horizontal line.

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APPENDIX

The following amendment to the claims of this application is requested. This marked-up version of the amended claims is attached to as to more clearly indicate the specific amendments proposed to claims 34, 35, 44, and 53. No claims are cancelled, and the claims remaining in this application after entry of this amendment are claims 34 - 58.

34 (Amended). An aqueous composition for reducing malodor impression, said composition comprising from about 0.01 to about 1.0 weight percent of a hydrophobic fragrance selected from the group consisting of fresh clean, spicy, floral, citrus, ozone, and marine type perfumes; from about 0.01 to 10.0 weight percent of a non-volatile organic compound surfactant/solubilizer for said fragrance; from about 0.01 to about 20.0 weight percent of a water soluble non-volatile organic compound solvent/drying aid for said fragrance; from about 0.05 to about 5.0 weight percent odor absorber; sufficient buffering agent to maintain the pH of the solution between 3 and 7; less than about 0.25 percent volatile organic compounds; and the balance water.

35 (Amended). The aqueous composition of claim 34, wherein said non-volatile organic compound surfactant/solubilizer is selected from the group consisting of nonionic, anionic, cationic, and amphoteric surfactants having the ability to solubilize perfumes having a C log P value greater than about 3.0.

44 (Amended). An aqueous composition comprising a perfume having a C log P value greater than about 3.0, said perfume selected from the group consisting of fresh clean, spicy, floral, citrus, ozone, and marine type perfumes; a surfactant/solubilizer for said perfume selected from the group consisting of linear primary alcohols, ethoxylated fatty alcohols, linear primary alcohol ethoxylates, polyoxyethylene ethers, alkoxyated biodegradable hydrotropes, ether sulfates, linear ethylene oxide, quaternary ammonium halides, betaines, amine oxides, and mixtures thereof; a solvent/drying aid for

said perfume selected from the group consisting of glycol ethers, glycol ether acetates, and mixtures thereof; and an odor absorber selected from the group consisting of water soluble salts of a metal selected from the group consisting of zinc, copper, silver, zirconium, nickel, and chromium; wherein said composition has [having] a pH between about 3 and about 7, and less than about 0.25 percent volatile organic compounds.

53 (Amended). A method for reducing malodor of a surface, said method comprising applying to said surface an effective amount of an aqueous solution comprising a hydrophobic perfume selected from the group consisting of fresh clean, spicy, floral, citrus, ozone, and marine type perfumes; a non-volatile organic compound surfactant/solubilizer for said perfume; a non-volatile organic compound solvent/drying aid for said perfume; a water soluble metal salt odor absorber; less than about 0.25 percent volatile organic compounds; and sufficient buffering agent to maintain the pH of said composition between about 3 and about 7, and permitting said surface to dry.